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DEPT FOR EB/IFD/OIA H. GOETHERT; L/CID S. MCDONALD

E.O. 12958: N/A

TAGS: [EINV](#) [KIDE](#) [DR](#)

SUBJECT: DOMINICAN REPUBLIC 2007 REPORT ON INVESTMENT
DISPUTES AND EXPROPRIATION CLAIMS

REF: STATE 55422

The United States Government is presently aware of twenty-one (21) outstanding claims (including five new claims for 2006, one in 2007, and one claim closed as of 2006) by US persons/entities against the Government of the Dominican Republic (government). In mid-2005 a USAID-sponsored consultant finished working with the Dominican Government on implementing a system for evaluating and resolving claims through the use of bonds. In 1999, Law 104-99 was passed, offering to claimants whose disputes arose on or before August 16, 1996, the option of circumventing the traditional method of claim resolution (at the "Bienes Nacionales"), and instead to seek compensation from a specially appointed Commission, provided the claimants are willing to accept payment in bonds. A total of 247 claims were solved under Law 104-99 with USAID assistance. This law expired on November 9, 2005.

Government action on resolution of claims slowed when the Fernandez administration took office in August 2004. The Office of Public Credit within the Ministry of Finance is responsible for expropriations and investment disputes. The current Director has maintained his position for less than a year. The office has had four directors in two years. This high turnover rate with the change in administration has delayed consideration of claims. The Office of Public Credit states that several claimants have either never registered their claim formally with the Office of Public Credit or the claims have not been passed to the Office of Public Credit from other Government offices. The Embassy raises these expropriation and investor dispute cases with the Government on a regular basis. In addition to visits to the Ministry of Finance, the Ambassador sent letters to the Minister of Finance and the legal advisor to the President requesting resolution of these U.S. claims. All information provided herein was last updated on June 1, 2007.

11. a. Claimant A

b. 1999

c. Eight independent power producers (IPPs), four of which are US-owned, provide approximately 30 percent of the Dominican Republic's electricity. In 1999, the IPPs entered into a "Definitive Agreement" with the government under which an escrow account was to have been established to permit the capitalization of the State electricity company,s (Corporacion Dominicana de Empresas Electricas Estatales (CDEEE)) power generation and distribution facilities. This escrow account was intended to receive payments from the new distribution companies and proceeds were to have been used to pay the IPPs for both current invoices and accumulated arrears. The government did not live up to its commitment to implement this escrow arrangement; CDEEE failed to keep its payments current to the IPPs; and the government breached several agreements to make up the shortfall, which exceeded \$100 million.

In September 2002, the government announced that seven of the eight IPP,s had agreed in principle to give up their existing long-term contracts. To date, the government has successfully renegotiated only one new contract with these IPP's. In February 2004, the government and CDEEE signed a short-term agreement with two of the Claimants whereby the government agreed to increase tariff rates, make payments on current invoices and negotiate accumulated arrears. Although tariff rates were increased CDEEE and the government have continuously failed to make timely payments to Claimants A, resulting in cash flow problems and credit difficulties, and they are presently in default to Claimants A, and other generating companies in the sector, in excess of \$400 million. Of additional concern, the contracts with Claimants A are backed, in part, by guarantees. Should Claimant A's lenders call those guarantees, the government faces liability of more than \$425 million. The Embassy has made repeated approaches to high government officials in an effort to resolve this ongoing problem. Although Embassy officers have met on various occasions with Claimants A, they have not requested Embassy advocacy in the last year. CDEEE has initiated renegotiation talks with each claimant. The renegotiation talks involve debt owed to the claimants.

¶2. a. Claimant B
 b. 1998

c. Claimant B purchased land located on the access road to Santo Domingo's Las Americas Airport. In 1998, the Public Works Department built the ramp for a highway overpass on Claimant B,s land. Embassy contacted Public Works on behalf of Claimant B and was informed that Claimant B will be included in whatever settlement (i.e., cash payment or relocation) was to have been offered to Dominican landowners affected by this construction. The government has yet to

authorize funding to settle Claimant B,s claim, and it fell too late to be included in the original bond issuance program. A possible government initial settlement offer will likely be in the form of bonds. No time has been set for a decision. Although the Embassy continues to discuss this claim with the Dominican government, the claimant has not contacted the Embassy in over a year. Embassy personnel have tried to contact the claimant, but the claimant could not be reached.

¶3. a. Claimant C
 b. 1994 and various

c. In 1996, Claimant C discovered that various components of the government had, over time, built facilities (including an airport runway extension) on a parcel of land near the town of Barahona that Claimant C,s company had owned since the 1920s. The Embassy raised this case on numerous occasions with senior Dominican officials and facilitated meetings between Claimant C and the government. In 1999, Claimant C accepted an offer of settlement in partial payment of the claim of approximately \$1.5 million, which the government paid in three equal payments. Efforts by Claimant to recoup the remainder of its claim have been rebuffed by the government, which takes the position that the claim has been satisfied in full. Although the Embassy continues to discuss this claim with the Dominican government, the claimant has not contacted the Embassy in over a year. Embassy personnel have tried to contact the claimant, but the claimant could not be reached.

¶4. a. Claimant D
 b. 1991

c. In 1988, the government asked Claimant D to build 1,000 homes for sugar cane workers. Claimant D never signed a contract with the government. Materials were shipped to the Dominican Republic for the first phase of construction (30 homes) and Claimant D had invoices showing that the materials arrived. In 1989, Claimant D was informed that, due to heavy rains and a bad crop, construction of the homes would be delayed. Claimant D arranged with port authorities to have the materials remain in the port until construction could begin. In 1991, Claimant D discovered that all of the

materials had disappeared. Claimant D alleged that some of the materials were auctioned off, and some given to government entities. Claimant D estimates losses at \$1.3 million. Claimant D's case was disqualified under Law No. 104-99. Claimant D has since initiated legal action in a Dominican court.

Embassy officials have been in direct contact with Claimant D and his lawyer. On May 7, 2007, the Director for Public Credit told emboff that he has prepared a letter for Claimant D's lawyer that lists the documents needed to process the case. Emboff relayed this information to Claimant D.

15. a. Claimant E (case closed as of December 2006)
b. 1990
c. In 1989, Claimant E purchased a 75 percent interest in beachfront property near Barahona. Claimant E's Dominican partners owned the remaining 25 percent. Claimant E's interest in the land had an estimated value of \$112,000. On September 18, 1989, the government seized the land, stating that it intended to use it for the construction of a power plant. Following this action, Claimant E entered into a new agreement with its Dominican partners, under which Claimant E would cease payments on the land and would reduce its interest in the property to 15 percent. It was agreed that legal actions would be undertaken jointly, the proceeds of which would be distributed between the co-owners in the same proportion as their interest in the property.⁸ Claimant E and its Dominican partners have sought compensation in Dominican courts, and reported to the Embassy in 1994 that the courts had ruled in their favor. No compensation was received so in January 2000, Claimant E applied for bonds under Law No. 104-99. The Embassy has made repeated approaches to high government officials in an effort to resolve this ongoing problem.

Subsequently, Claimant E informed the Embassy that they received payment, valued at \$30,000, from the Dominican government in December 2006.

16. a. Claimant F
b. 1983
c. Claimant F is the owner of land with an assessed value of approximately \$1 million in the Puerto Plata area of the Dominican Republic. In 1983, the government seized the land, which is now part of the Isabel de Torres Scientific Preserve.⁸ Claimant F sought compensation, but none was approved. According to Claimant F, the government previously valued the land at \$330,000. Claimant F reported that it has

an assessment valuing the land at approximately \$990,000. Claimant F is willing to negotiate. The Embassy raised this matter in all discussions of investment disputes with the government. To date there has been no resolution, and the matter continues to experience payment opposition on behalf of Claimant F.

Although the Embassy continues to discuss this claim with the Dominican government, the claimant has not contacted the Embassy in over a year. Embassy personnel have tried to contact the claimant, but the claimant could not be reached.

17. a. Claimant G
b. 1980,s
c. The government expropriated Claimant G's property in the 1980,s, which Claimant G valued at several million dollars. To date there has been no resolution. Although the Embassy continues to include the matter in all discussions of investment disputes with the government, the claimant has not contacted the Embassy in over a year. Embassy personnel have tried to contact the claimant, but the claimant could not be reached.

18. a. Claimant H
b. 1986
c. Pursuant to a presidential decree in 1986, the government expropriated 823,495.70 square meters of land belonging to Claimant H for use in the construction of the Maria Montez

Airport in Barahona. Claimant H has sought compensation for the land, improvements to the land, crops located thereon, and for three million cubic meters of raw materials extracted from the land. The claim was brought to the attention of the Embassy in May 2001, and has been included in all discussion of investment disputes with the government since that time. To date there has been no resolution. The matter continues to be considered for settlement.

Although the Embassy continues to discuss this claim with the Dominican government, the claimant has not contacted the Embassy in over a year. Embassy personnel have tried to contact the claimant, but the claimant could not be reached.

¶9. a. Claimant I

b. 1987

c. Claimant I's contract claim involves the unpaid commission for loan guarantees on a real estate transaction brokered in 1976. Claimant I asserts he is entitled to 2% of \$12 million, the loan guarantee amount. Claimant I has a default judgment from the US Court of Appeals for the Ninth Circuit, entered in 1987, for \$240,000. Claimant I asserts that with interest, the claim is now valued at approximately \$2 million. Embassy has raised this issue with government officials and facilitated a meeting between Claimant I and government officials, and the parties are presently in discussion. The government provided the loan guarantees.

Embassy personnel have tried to contact the claimant, but the claimant could not be reached.

¶10. a. Claimant J

b. 2003

c. In 1998 Claimant J and family responded to advertisements by the Dominican Republic seeking US investment by purchasing two adjacent parcels of land located in Cumayasa, San Pedro de Macoris. In March of 2003 Claimant J, while visiting his property, discovered that almost 700 mature coconut trees had been bulldozed and other property destroyed by the Dominican Consejo Estatal de Azucar (CEA). When Claimant J contacted the CEA office in Santo Domingo to request an immediate evacuation of the area a CEA engineer recommended that Claimant J instead request that the properties be replaced with other unspecified parcels in unspecified areas, citing the CEA had incurred expenses in grading the land and uprooting the fruit trees. Claimant J immediately contacted a local attorney and initiated legal action in a Dominican Court. The Embassy contacted government officials in regard to this claim. The matter is currently pending a judicial decision.

Although the Embassy continues to discuss this claim with the Dominican government, the claimant has not contacted the Embassy in over a year. Embassy personnel have tried to contact the claimant, but the claimant could not be reached.

¶11. a. Claimant K

b. 1992

c. In 1991 as an insurer to an international company with a contract to provide the sale of power station spare parts for the Dominican Corporacion Dominicana de Empresas Electricas Estatales (CDEEE), Claimant K paid \$2,829,112.63 to the

insured and accepted transfer of all rights to settlement in the dispute with the Dominican government. On May 12, 1992 an Italian court ruled in favor of Claimant K and ordered the payment of approximately \$5,369,781 (original sum plus accrued interest and expenses) by the CDEEE/government. In early 2003, government officials sought to retain a law firm in the US to negotiate a final settlement with Claimant K. The retainer was never completed. On May 27, 2004 the Ministry of Finance's Legal Department issued its opinion on the issue. The Embassy had been in repeated contact with government officials in regard to this claim and brought it to the specific attention of the Ministry of Finance. In 2006 the government issued an offer of \$3,758,275 dollars.

The Claimant has decided to wait for the interest to be calculated by CDEEE. Once this interest amount is calculated and sent to the Ministry of Finance, the claimant will seek a reimbursement that includes the interest (roughly \$6 million) and the initial offering of \$3,758,275 dollars. At the end of May 2007, the Minister of Finance requested Claimant K to negotiate the interest payment directly with CDEEE. The claimant views this motion as a positive step to resolving the interest payment.

¶12. a. Claimant L

b. 1992

c. Claimant L owned 400 square meters of land bordering the road to the Santo Domingo Las Americas Airport. The land was expropriated by the government in the 1990,s for highway expansion. Claimant L,s claim is being held up in the Ministry of Finance's Legal Department. In order for Claimant L to receive compensation, the Legal Department must correct an error, which it committed at the time of the first disbursement. The original disbursement incorrectly included the entire property instead of just the back-lot. Although Mr. Langa received reimbursement for his back-lot property, valued at RD 2,051,724, (paid in bonds) he has yet to receive payment for the front lot of his property valued at RD 360,000. The Embassy spoke at length to the Director of Public Credit regarding this issue. On May 7, 2007, the Director assured the Embassy that this error will be resolved immediately and that Mr. Langa will receive his payment in June 2007. Mr. Langa states that the legal department of the Ministry of Finance and the Director,s assistant has contacted him to resolve this matter.

¶13. a. Claimant M

b. 2003

c. Claimant M is involved in a contractual dispute with the Dominican Procuraderia Nacional (Attorney General) concerning a telephone system for Dominican prisons. Claimant M,s company, in partnership with a California-based equipment maker, is having trouble activating the system in the prisons due to bureaucratic delay in the Dominican Procuraderia. His telephone equipment has already been installed in the central offices of the Procuraderia General and the Najayo, Puerto Plata and La Victoria prisons. In 2004, when representatives of Claimant M went to activate the equipment at the central office, they were informed they could not operate the equipment until they had a letter of authorization from the Procuraderia,s office. Claimant M has invested over \$150,000 and is currently losing \$7,000 a month waiting for the Procuraderia to sign the appropriate letter. Claimant M signed a contract with the government on Sept 4, 2003. A new presidential administration began on August 16, 2004 and appears reluctant to honor the agreements of the previous administration. The Embassy has met with the Deputy Attorney General for Prisons and the Dominican telecommunications regulating agency of behalf of Claimant M.

Although the Embassy continues to discuss this claim with the Dominican government, the claimant has not contacted the Embassy in over a year. Embassy personnel have tried to contact the claimant, but the claimant could not be reached.

¶14. a. Claimant N

b. 2005

c. On May 7, 2004, Claimant N and the company he represents signed a contract with the government agency, (Corporacion Dominicana de Empresas Estatales - CORDE), granting Claimant N and his company Agregados del Lago the right to exploit a government-owned salt mine in the area of Las Salinas, Province of Barahona, for a period of 25 years. Claimant N alleges the government is not honoring the contract and is denying his company access to the area.

In February 2005, CORDE took back the mine, claiming that the contract was invalid. Two weeks later, CORDE gave the mine back to Claimant N. In March 2005, however, the Comision de Reforma de la Empresa Publica (CREP) took the mine from Claimant N and did not permit him or his company access to

the mine. CREP, which is responsible for handing over state companies to private enterprises, stated to Claimant N that his contract was invalid because no public concession occurred and because Claimant N had an active Dominican Senator on Claimant N,s payroll at the time the contract was signed. CREP has since then maintained control of the mine.

Claimant N asserts that he has invested \$650,000 in equipment and other investments including contractual payments and tax payments to the government. The contract requires Claimant N to invest \$1.5 million in the mine over the first five years of the contract and then \$150,000 every year thereafter. The Embassy has contacted CREP, CORDE, as well as the General Director of Mining, to seek a resolution on the behalf of Claimant N. CREP provided the Embassy their legal case as to why Claimant N,s contract is not valid.

The Embassy discussed this case with the Department,s L Bureau and recommended to Claimant N that he should exhaust all channels to include legal channels to resolve this case. Claimant N asserts that he plans to take his case to court.

¶15. a. Claimant O

b. 2002

c. Claimant O entered a contract with Unidad Corporativa Minera (UCM, a government-owned entity closed in 2004) to determine the economic viability of sulphate based gold reserves at the Pueblo Viejo mine. UCM contracted Claimant O to conduct an environmental study, fish assessment, tailings dam sitings and an overall technical review. The job was finished in June 2002, but UCM failed to pay Claimant O more than \$125,629. Embassy officials have been in contact with UCM and the Director General de Minería. Obtaining payment from the government has been difficult in part because the UCM no longer exists and changes at the Office of Public Credit have slowed processing.

Although the Embassy continues to discuss this claim with the Dominican government, the claimant has not contacted the Embassy in over a year. Embassy personnel have tried to contact the claimant, but the claimant could not be reached.

¶16. a. Claimant P

b. 2002

c. Claimant P is currently involved in a legal dispute with the Anabalca Shipyard Company (50% owned by the Dominican Navy), the company he contracted to repair his tugboat. Anabalca is holding his tugboat as collateral for \$40,000 in repairs performed after the tugboat experienced transmission problems. Claimant P claims Anabalca did not correctly align the shaft, which caused the transmission to break. Claimant P refuses to pay for the services Anabalca has provided. For the last three years the case has been before the Dominican Court in Bani. Claimant P,s tugboat has been in the Port of Las Calderas, Province of Peravia, since June 2001. Embassy officials have raised this issue with the managers of the Anabalca Shipyard and the Dominican Armed Forces. The Dominican Navy does not operate the shipyard and has no authority over the operations of Anabalca and its repair shop. It appears that this dispute is purely a commercial dispute.

¶17. a. Claimant Q

b. 2004 (Claimant contacted the Embassy in 2006)

c. Claimant Q had approximately 251 acres in the Bayahibe area expropriated by the Ministry of Environment in 2003. Claimant Q had a real estate company value the expropriated property at about \$24 million dollars. The Dominican authorities, however, valued the land at about \$7 million dollars. Claimant Q objects to this pricing and has since brought legal action to defend the true value of their property. As of 5/22/2007, the Director of Public Credit, Edgar Victoria, told embassy officials that he has requested the Ministry of Environment to verify if Claimant Q,s land was expropriated in the 1970's for Parque del Este. If the land was expropriated at that time, the value of the claim would reflect the value of the land at the time of

expropriation, which is considerably less than Amcit's claim, which values the land in 2003--the time the Amcit believes that the land had been expropriated.

¶18. a. Claimant R (Claimant contacted the Embassy in 2006)
b. 2003

c. Claimant R states that the land their family owned in Santo Domingo was expropriated by the government of the Dominican Republic. The file is located at the Tribunal de Tierra. Since 2003, cClaimant R has tried to get reimbursed for the expropriated property. Mr. Edgar Victoria, The Director of Public Credit /Deuda-Credito Public of the Secretaria de Haciendas told embassy officials in late May

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2007, that he has all the documets, but that he and is

awaiting for a letter from the cClaimant R to requestthat outlines the total amount and includes a check and the newly printed property titles from Rosa Abel Castillo from the Registro de Titulo at la Feria.

¶19. a. Claimant S (Claimant contacted the Embassy in 2006)
b. 2000

c. Claimant S states that the land their family owned near La Ruina was expropriated by the government of the Dominican Republic to build a road. The government also dumped landfill on Claimant S,s property. Claimant S states that the government promised to give them a check, but they never received this check. These claimants have not signed privacy act waiversmet with the office of Public Credit to substantiate their claims.

¶20. a. Claimant T (Claimant reinitiated contact with the Embassy in 2006)

b. 1974 (Claimant reinitiated contact with the Embassy in 2006)

c. Claimant T states that the land and their businesses their family owned were expropriated by the government of the Dominican Republic in the early 1960,s. The following is a list of the companies that were operated by Claimant T: Industria Nacional del Vidrio, Sisal Dominicano, Consorcio Algodonero, Sacos y Tejidos Dominicanos, Fabrica de Sacos y Corderleria, Sal y Yeso Dominicanos. A Supreme Court decision was made in 1970 in favor of Claimant T. The government reimbursed Claimant T for a portion of the land but did not reimburse the family for their businesses and other properties. Claimant T states that the only reimbursement the family has received amounts to roughly 10 percent of the estate that was expropriated. The Supreme Court decision estimated the amount of investment for the businesses at USD 34 million at the time of confiscation, which was over 30 years ago.

Although Claimant T is new to thislist, Claimant T has sought Embassy assistance in the past. Claimant T reinitiated contact with the Embassy in the fall of 2006. Embassy officials have repeatedly discussed this issue with the Director of Public Credit and have sent official notices to the Minister of Finance regarding this claim.

According to the Director of Public Credit and the President,s counsel, only President Fernandez can authorize reimbursement, even though a Supreme Court decision has demanded this action over 35 years ago.

Claimant T was not a U.S. citizen at the time of expropriation. His children are U.S. citizens and have pursued this case with the Embassy, the State Department, and U.S. congressmen after the death of their father in 1989.

¶21. a. Claimant U

b. 2003 (Claimant contacted the Embassy in 2006)

c. Two U.S. citizen firms, Skol Associates and Manchester Trade,Claimants V have reported an outstanding debt with the Dominican government since 2003. These firms claimants report that they performed advocacy work for the Dominican Republic, including advocating for your the country's

inclusion in the Dominican Republic-Central America Free Trade Agreement (DR-CAFTA). These firms claimants also report that, after years of advances and setbacks in seeking payment of their claim, the latest problem preventing payment has been that the Dominican Comptroller never certified the second contract signed by President Mejia in 2003, though the Dominican government has already made partial payments on that contract. The firms claimants believe that the Dominican Government should not withhold payments for what the claimants firms see as an internal error on the part of the Government of the Dominican Republic subsequent to the signing of an otherwise valid contract, particularly since these claimants firms say they were expected to honor the contract immediately following its signing. Finally, these firms are concerned that the change of the calendar year will affect the current progress in advancing their claim. Embassy officials have met numerous times with government officials regarding this case. In late May of 2007, the Director of Public Credit sent a letter to Claimant U asking for more information to settle the claim.

¶22. a. Claimant V

b. 2002 (Claimant contacted the Embassy in 2007)

c. Claimant V had invested in the Cayman power barge that sold power to CDEEE in the 1990s. In 2000, CDEEE and the government of the Dominican Republic (GoDR) stopped paying the bill. Claimant V went into arbitration for the unpaid bill with the ICC (International Chamber of Commerce) in

¶2001. Claimant V won an arbitral award (\$6 million) in 2005

and notified the Dominican government and CDEEE. Since 2005, Claimant V has failed to receive the arbitral award from CDEEE. Claimant V has therefore gone to the federal district court in Washington D.C. in order to seize Dominican assets in the U.S. against the arbitral award. Embassy officials met with both the Director of Public Credit and CDEEE to determine a quick resolution. Subsequently, Claimant V met with CDEEE. CDEEE's vice-chair agreed to the principal amount of the arbitral award and requested to negotiate with Claimant V the interest payment. Claimant V plans to meet with CDEEE to negotiate the final settlement in June 2007.

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The list of claimant names follows, all of whom are believed to be either U.S. citizens or companies with significant U.S. citizen investment. These claimants have not signed privacy act waivers.

Claimant A: AES Dominican Power Partners, Coastal Corporation, Seaboard Corporation, and Maxon Engineering Services Inc.

Claimant B: Boyd Hernandez Collazo

Claimant C: Hunt Marckwald, Habanero Land Company

Claimant D: Bob Weidner (Chilott/Prefabricados Linda)

Claimant E: Ronald Blisset, Blisset Enterprises

Claimant F: Luis M. Bordas and Neyda Lopez Bordas

Claimant G: Mercedes Colwin

Claimant H: Miguel Angel Fuentes Vasallo

Claimant I: Charles V. Meadows

Claimant J: Dante Llacuna

Claimant K: New Hampshire Insurance Company

Claimant L: Carlos Langa

Claimant M: Gabelle Prison Telephones- Ruben Cerezo

Claimant N: Pedro Antonio Martinez, Agregados del Lago,
S.A

Claimant O: Pincock, Allen & Holt, subsidiary of
HartCrowser

Claimant P: Tugboat Linda W- Gene Martin

Claimant Q: Carlos Diaz

Claimant R: Rosario Ginebra vd. Del Castillo and Succesores
de Jesus B. Del Castillo

Claimant S: Maria Rojas

Claimant T: Gadala Maria

Claimant U: Skol Associates and Manchester Trade

Claimant V: Elliott Management Corporation &Cayman
Power Barge8
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